

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Karen G. Scott,)	Civil Action No.: 9:12-3228-CWH-BHH
)	
Plaintiff,)	
)	<u>REPORT AND RECOMMENDATION</u>
vs.)	<u>OF MAGISTRATE JUDGE</u>
)	
Eric Holder, <i>Attorney General,</i>)	
<i>Department of Justice, Federal</i>)	
<i>Bureau of Prisons,</i>)	
)	
Defendant.)	

On November 9, 2012, Plaintiff brought the instant employment discrimination action against Defendant Eric Holder. (Dkt. No. 1.) On December 12, 2012, the undersigned issued an order giving Plaintiff twenty-one days to:

(1) Submit fully completed, signed and dated Plaintiff's Answers to the Court's Special Interrogatories, which is attached to this order.

(2) Complete, sign and return the enclosed Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240) which is attached to this order.

(3) Complete a summons form which lists the Defendant named in this matter. Additionally, complete a summons form for the Attorney General of the United States and a separate summons for the United States Attorney for the District of South Carolina. In the space following "TO: (Defendant's name and address)," Plaintiff is required to provide a complete name and a full address where Defendant can be served pursuant to Rule 4 of the Federal Rules of Civil Procedure. Plaintiff's complete name and full address must be provided in the blank section following "plaintiff or plaintiff's attorney, whose name and address are" Handwritten information must be printed and legible. Nothing else should be written by Plaintiff on either the front or back of the summons or in the margins. . Blank forms are attached for Plaintiff's use.

(4) Complete, sign, and return a Form USM-285 for each Defendant listed in this case. Additionally, complete a separate Form USM-285 for the Attorney General of the United States and a separate Form USM-285 for the United States Attorney for the District of South Carolina. Only one Defendant's name and street address should appear on each form. Defendant's name and street address should be placed in the spaces preceded by the words

“SERVE AT.” Plaintiff’s name and address should be placed in the space designated “SEND NOTICE OF SERVICE COPY TO . . .”, and Plaintiff should sign where the form requests “Signature of Attorney or other Originator” Plaintiff must provide Defendant’s complete street address on the form (not a post office box address). Plaintiff must provide, and is responsible for, information sufficient to identify Defendant(s) on the Form(s) USM-285. The United States Marshal cannot serve an improperly identified defendant, and unserved defendants may be dismissed as parties to a case. Blank forms are attached for Plaintiff’s use.

(5) Submit fully completed and signed pro se party’s answers to Rule 26.01 interrogatories, which are attached to this order.

(Dkt. No. 6 at 1-2.) Plaintiff was specifically instructed as follows:

If Plaintiff does not bring this case into proper form within the time permitted by this order, this case may be dismissed for failure to prosecute and failure to comply with an order of this court under Rule 41 of the Federal Rules of Civil Procedure.

(Dkt. No. 6 at 1 (emphasis in original).)

Plaintiff failed to comply with the undersigned’s order dated December 12, 2012, and this case has not been brought into proper form. Based on the foregoing, it appears the Plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court’s orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce Howe Hendricks
United States Magistrate Judge

February 6, 2013
Charleston, South Carolina

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).